

Equal Justice for All



E PLURIBUS UNUM

“Each day court employees assist persons representing many races, religions, national origins, languages, sexual orientations, and varieties of personal appearance. Court employees are expected to treat one another and each user of court services with impartiality and compassion. Equal access to the court system and equal treatment for all serve as the cornerstone of the administration of justice. Court employees must expose and discourage discrimination wherever it exists.”

*Excerpt from the State of Rhode Island Code of Ethics
for all court employees, adopted in February 1997.*

From the Chief Justice

The Rhode Island Judiciary has demonstrated leadership over the past two decades in addressing the issue of bias. In the mid-1980s a Supreme Court committee was appointed to determine the extent of gender bias in the courts and make recommendations for addressing the problem. In 1999, the role of this committee was expanded to include an examination of racial and ethnic bias as well.

As a result, the court environment has changed significantly, and there is a far greater sensitivity to discriminatory behavior and actions today than there was in the past. Although progress has been made over the years, we must continue to be mindful that bias, whether real or perceived, deliberate or unintentional, has no place in the justice system. The elimination of bias has to be an ongoing effort, requiring continual self-examination and reeducation.

As members of the Judiciary, our actions and words have an impact far beyond the courtroom. The way we treat each other, litigants, jurors, and all before us is important. Thus, this pamphlet is an update of one published in 2001 and represents a response to emerging issues in our society and the changing demographics of our state. It reflects the need for us, as members of the judicial system, to examine our own conduct and become aware of subtle, or even unintentional, actions that may show or be perceived as bias of any type.

I urge you to become familiar with the contents of the pamphlet. By committing yourself to the principles it sets forth, you are furthering the goal of our system of equality and justice for all.

Frank J. Williams
Chief Justice, Supreme Court

From the Chair

Each day thousands of people access the courts across the state to address a myriad of issues that are significantly impacting their lives. The employees of the Judiciary, the staff in agencies that provide invaluable support to the courts, and private attorneys work conscientiously and diligently each day to serve these people with courtesy and respect. Unfortunately, the volume of cases and the emotional nature of many of these cases can result in hectic and even stressful situations in the courtrooms, corridors, and court offices.

The mission of the Supreme Court's Permanent Advisory Committee on Women and Minorities in the Courts is "to identify problems and make recommendations that ensure fair and equal treatment in the state courts for all parties, attorneys, court employees, and other persons." As such, this pamphlet has been developed to assist you in handling the hectic pace and stressful situations in the most professional and ethical manner. This pamphlet provides you with examples of behaviors that should be practiced or avoided in your interaction with colleagues and the public in order to avoid even the perception of inappropriate verbal or nonverbal communication.

Fairness and equality are the fundamental goals of our justice system. We believe the information contained in this pamphlet can serve as guiding principles for achieving these goals.

Howard I. Lipsey
Associate Justice, Family Court
Chair, Permanent Advisory
Committee on Women and
Minorities in the Courts

Equal Justice for All

I N T R O D U C T I O N

Judges, magistrates, judicial staff, attorneys, and staff from the numerous agencies that provide vital services to the state courts must fulfill their responsibilities and perform their duties with adherence to the highest ethical and professional standards. Therefore, in verbal and non-verbal interactions, court staff, related agency staff, and attorneys must exhibit behaviors that are free of biases and stereotypes based on race, ethnic background, gender, age, physical limitations, sexual orientation, social class, or English language proficiency. Court staff, agency staff, and attorneys must be aware that unnecessary differential treatment of colleagues and parties involved in a court matter, whether intentional or not, must be avoided in order to provide fairness in the courts and equal justice under the law.

Although bias is a complex issue, this pamphlet is intended to provide you with ideas and examples of behaviors that should be practiced or avoided in an effort to ensure fairness and equal justice under the law. Addressing situations in a bias-free, culturally sensitive manner is not about being politically correct, but rather about providing effective service in a fair manner to all.

Equal Justice Under the Law

Equal Justice Under the Law is more than a phrase -- it is the foundation of a safe and secure, democratic society. The state court system, which you work for or provide direct support to, is responsible to guarantee that those who access the courts receive fair and respectful treatment. Each of you in your position as a...

- Judge;
- Attorney;
- Court employee; or
- Court service provider *

...has a professional responsibility to treat everyone, including both colleagues and the public, with courtesy, fairness, and respect regardless of their race, ethnic background, gender, age, physical limitations, sexual orientation, social class, or English language proficiency. Adhering to ethical and professional standards in your dealings with your colleagues and those who must access the courts will guarantee that you are part of providing the parties involved in the court with equal justice under the law.

* *Bail commissioner, Capitol Police, sheriffs, probation officers, social workers, interpreters, constables, and others.*

Professional Responsibility

Bias exists in our society, and it can be difficult to overcome these preconceived notions or assumptions. However, if unchecked, these biases and assumptions can result in a person treating a member of a specific group in an unnecessary differential manner. It is the staff and attorneys' professional responsibility to examine their biases and assumptions and never allow them to affect behavior, verbal or nonverbal, in the work environment.

As an employee of the Judiciary, attorney, or staff member of an agency that provides vital support to the courts, you work in a busy, demanding and often emotionally charged environment. However, in your interactions with colleagues, other professionals, and the public, it is your professional responsibility to:

- Treat everyone, parties to a case and colleagues, with fairness, respect, and courtesy;
- Exhibit patience in dealings with individuals who may not understand our system due to their country of national origin, limited English language proficiency, or lack of experience with the justice system; and
- Be aware of resources within the court system and related agencies that can assist parties in a case to receive equal justice under the law (e.g., availability of interpreters, advocates, and other services).

AS AN EMPLOYEE OF THE JUDICIARY OR OTHER SUPPORT AGENCY

From experiences, each person possesses biases or preconceived assumptions about groups of people. It is each person's professional responsibility to prevent these biases and assumptions from unnecessarily altering behavior toward individuals from these groups. Judges, magistrates, judicial staff, attorneys, and staff in the agencies that support the courts must remember:

- Never make assumptions about a person's role in the courthouses or courtrooms based on race, ethnicity, gender, attire, or other stereotypes;
- Do not label women or minority litigants as emotional or troublesome or regard cases typically brought by women or minorities as less important;
- Avoid curt responses to members of the public or colleagues, regardless of how busy you are. Every question or issue presented to you deserves a thoughtful response. Spending an extra minute responding in a thorough and thoughtful manner may resolve the issue at hand while having minimal impact on preventing you from completing your daily duties;
- Never tell racial or ethnic anecdotes. While seemingly harmless, these comments may serve to support stereotypical assumptions and undermine a person's status as a professional or party to a case;
- Do not repeat jokes or make remarks with racial, ethnic, or sexual content or that play on stereotypes. These behaviors are out of place in the justice system;
- Always object to gender, ethnic, sexual, or racially based statements, regardless of who makes them;

- Refrain from touching individuals. Whether intended or not, touching can offend or make a person uncomfortable, and there is no need for it in the courthouse;
- Do not make sexually suggestive comments, gestures and/or advances, as these can humiliate and intimidate people. Such acts also can constitute sexual harassment, which is prohibited by law and may be subject to sanctions;
- During interactions with a person from another culture, do not assume that nodding always means “yes” or that the lack of eye contact denotes disrespect, evasiveness, or deceit. Nonverbal communication varies from culture to culture and misunderstanding can arise from body language and nonverbal communication;
- When using an interpreter, ask your question directly to the person. Do not constantly look at the interpreter and do not start your questions with “Ask her/him . . .” or “Tell her/him . . . ;”
- When using an interpreter or speaking to someone with limited English language proficiency, avoid the use of negatively worded questions. Do not ask, “Did you not understand the question?” rather ask, “Did you understand the question?” ; and
- When using an interpreter or speaking to someone with limited English language proficiency, avoid using English slang, jargon, and idiomatic expressions such as, “the whole ball of wax,” “this is first and long,” “it’s a slam dunk,” and “that is par for the course.”

AS A JUDGE OR MAGISTRATE

All court personnel, whether in the courtroom, court offices, or hallways are responsible to treat people with fairness, respect, and courtesy. However, as a judge or magistrate, you have a unique role that brings with it added responsibilities. You are the visible leader of the courts, and by behavior, instructions, and directions, judges and magistrates set the tone in their courtrooms and chambers. Judges and magistrates must:

- Verbalize to court staff, agency staff, and attorneys that you demand behavior in your courtroom and chambers that is free of bias;
- Conduct hearings and conferences, whether in the courtroom or chambers, that are free from bias or the perception of bias;
- Intervene and take whatever steps are necessary to correct behaviors of courtroom staff, agency staff, and attorneys that are not compatible with providing equal justice to all; and
- Recognize that all matters heard by the court are important to the parties, regardless of how busy the daily schedule may be.

WHILE PRESIDING OVER HEARINGS AND CONFERENCES

It is imperative that matters heard in open court and conferences held in chambers be handled in a professional, bias-free manner. During informal and formal interactions, judges and magistrates must carefully guard against bias or even the appearance of bias. With the judge or magistrate as the leader, attorneys, staff, and other parties must be aware that comments appropriate in a social environment often are inappropriate in court hearings, conferences, and other professional settings. It should be noted that judges and magistrates can engage in pleasant yet professional conversations with attorneys, staff, and parties in a case. Judges and magistrates should:

- Be gender neutral in written and oral communications. Avoid addressing a mixed group as gentlemen or brothers. Comments such as "Good morning everyone," "Good morning," "Is everyone ready to proceed?," "Are we ready to proceed?" are gender neutral comments;
- Address both men and women in the same formal or professional manner. For example, refer to both male and female attorneys as Attorney A and Attorney B, not Ms. A and Attorney B;
- Avoid comments on physical appearance, hair style or color, and attire as this can undermine the person's professional credibility or credibility as a party in a case; and
- During informal conversations with attorneys and/or parties be inclusive of all parties present. Judges and magistrates should be aware that conversations with one attorney or party related to personal issues, such as family, attendance at sporting events, or membership in religious, community, or social organizations, to the exclusion of another can present, real or perceived, the appearance of bias.

Conclusion

Judges, magistrates, court employees, attorneys, and court support staff are responsible to fulfill their duties in accordance with the highest ethical and professional standards. Those who represent the court and the state's justice system must protect the dignity and integrity of the court by acting and speaking without regard to a person's race, ethnic background, gender, age, physical limitations, sexual orientation, social class, or English language proficiency. By adhering to the guidelines on the preceding pages, the Judiciary will provide fairness and justice for all.

Advisory Committee Members

Jametta Alston, Esq.
Child Advocate

Robert Barge, Esq.
Rhode Island Legal Services, Inc.

Mr. Samnang Becker
Rhode Island District Court

Ms. Cheryl A. Burrell
Department of Administration, Human
Resources Outreach and Diversity
Office

Ms. Carla Ciccone
Judicial Records Center

The Honorable Edward C. Clifton
Associate Justice, Superior Court

The Honorable Dianne Connor
Associate Judge, Workers'
Compensation Court

The Honorable Francis J. Darigan, Jr.
Associate Justice, Superior Court

The Honorable Stephen P. Erickson
Associate Judge, District Court

Ms. Zulma Garcia
Rhode Island Coalition Against
Domestic Violence

Maria J. R. Goncalves, Esq.
Private Attorney

John Hardiman, Esq.
Public Defender

Ms. Wenonah Harris
Indian Child Welfare Advocate

Dawn Huntley, Esq.
Department of the Attorney General

Mr. Joseph R. Le
Socio-Economic Development Center
for Southeast Asians

The Honorable Howard I. Lipsey (Chair)
Associate Justice, Family Court

Mr. Victor M. Mendoza
Department of Administration, Human
Resources Outreach and Diversity
Office

Mr. Clifford Montiero
NAACP Providence Chapter

Denise Lombardo Myers, Esq.
Private Attorney

The Honorable Edward Newman
Magistrate, Family Court

Ms. Olga Noguera
Department of Human Services

Ms. Lidia Oster
Family Court

The Honorable Rafael Ovalles
Associate Judge, District Court

The Honorable Susan L. Revens
Magistrate, Superior Court

Ms. Tracy Shepherd
Workers' Compensation Court

Mr. William Shuey
International Institute of Rhode Island

Jennifer Sternick, Esq.
Private Attorney

The Honorable O. Rogeriee Thompson
Associate Justice, Superior Court

Ms. Susana Torres-Montes
Office of Court Interpreters

Eliza Vorenberg, Esq.
Roger Williams University School of Law

The Honorable Anastasia Williams
State Representative



Prepared by the Supreme Court
Permanent Advisory Committee on
Women and Minorities in the Courts
October 2006